

## South Africa

### Incidence and Nature of Child Labor

Statistics on the number of working children under age 15 in South Africa are unavailable.<sup>4307</sup> Working children are most often found on farms and in the informal economy.<sup>4308</sup> More children in rural areas than urban areas are engaged in some type of work. Children work in commercial agriculture and on subsistence farms planting and harvesting vegetables, picking and packing fruit, and cutting flowers.<sup>4309</sup> Children perform domestic tasks in their own households and work as paid domestic servants in the homes of third parties. Many work as unpaid domestic servants, especially on rural farms.<sup>4310</sup> In urban areas, children work as street hawkers, especially around taxi stands and near public transportation,<sup>4311</sup> and as car guards.<sup>4312</sup> Child labor is one of many problems associated with poverty. In 2000, 10.7 percent of the population in South Africa were living on less than USD 1 a day.<sup>4313</sup>

There are reports that child prostitution is increasing.<sup>4314</sup> South Africa is a country of origin, transit, and destination for children trafficked for the purposes of commercial sexual exploitation and forced labor.<sup>4315</sup> Girls are reportedly trafficked internally and from other countries, including Swaziland, Mozambique, China, and Thailand, for the purpose of sexual exploitation.<sup>4316</sup> There are also reports that boys are trafficked to South Africa for forced agricultural work from neighboring countries,<sup>4317</sup> including Lesotho.<sup>4318</sup> Trafficking of children from rural areas to urban areas for the purpose of domestic service is also a problem.<sup>4319</sup>

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<sup>4307</sup> This statistic is not available from the data sources that are used in this report. Please see the “Data Sources and Definitions” section for information about sources used. Reliable data on the worst forms of child labor are especially difficult to collect given the often hidden or illegal nature of the worst forms, such as the use of children in the illegal drug trade, prostitution, pornography, and trafficking. As a result, statistics and information on children’s work in general are reported in this section. Such statistics and information may or may not include the worst forms of child labor. For more information on the definition of working children and other indicators used in this report, please see the “Data Sources and Definitions” section of this report.

<sup>4308</sup> U.S. Consulate- Johannesburg, *reporting*, June 21, 2000, para 2.

<sup>4309</sup> U.S. Consulate- Johannesburg, *reporting*, September 3, 2004, para 2.

<sup>4310</sup> Debbie Budlender and Dawie Bosch, *Child Domestic Workers: A National Report; No 39*, ILO-IPEC, Geneva, May, 2002, ix, x; available from <http://www.ilo.org/public/english/standards/ipecc/simpoc/southafrica/others/domestic.pdf>. See also U.S. Consulate- Johannesburg, *reporting*, June 21, 2000, para 4.

<sup>4311</sup> Ibid.

<sup>4312</sup> ILO-IPEC, *HIV/AIDS and Child Labour in South Africa: A rapid assessment*, Paper No. 4, March 2003, 27.

<sup>4313</sup> World Bank, *World Development Indicators 2005* [CD-ROM], Washington, D.C., 2005.

<sup>4314</sup> ECPAT International, *South Africa CSEC Overview*, [database online] 2005 [cited July 1, 2005]; available from [http://www.ecpat.net/eng/Ecpat\\_inter/projects/monitoring/online\\_database/index.asp](http://www.ecpat.net/eng/Ecpat_inter/projects/monitoring/online_database/index.asp). See also U.S. Department of State, *Country Reports on Human Rights Practices- 2004: South Africa*, Washington, D.C., February 28, 2005, Section 5; available from <http://www.state.gov/g/drl/rls/hrrpt/2004/41627.htm>. Children are reportedly forced into prostitution by their parents, in order to help support their families financially. See U.S. Consulate- Johannesburg, *reporting*, September 3, 2004.

<sup>4315</sup> U.S. Department of State, *Trafficking in Persons Report- 2005: South Africa*, Washington, D.C., June, 2005, 198; available from <http://www.state.gov/g/tip/rls/tiprpt/2005/>. See also ECPAT International, *South Africa CSEC Overview*.

<sup>4316</sup> U.S. Department of State, *Trafficking in Persons Report- 2005: South Africa*, 198. See also U.S. Department of State, *Country Reports- 2004: South Africa*, Section 5. See also International Organization for Migration, *The Trafficking of Women and Children in the Southern African Region*, Pretoria, March 24, 2003, 11; available from <http://www.iom.int/documents/publication/en/southernafrica%5Ftrafficking.pdf>.

<sup>4317</sup> U.S. Department of State, *Trafficking in Persons Report- 2005: South Africa*, 198.

<sup>4318</sup> International Organization for Migration, *The Trafficking of Women and Children in the Southern African Region*, Pretoria, March 24, 2003, 12; available from <http://www.iom.int/documents/publication/en/southernafrica%5Ftrafficking.pdf>.

<sup>4319</sup> U.S. Consulate- Johannesburg, *reporting*, September 3, 2004, para 5.

The Constitution guarantees every child the right to basic education.<sup>4320</sup> The South African Schools Act of 1996 makes school compulsory for children ages 7 to 15 years and prohibits public schools from refusing admission to any child on the grounds of learning ability or race.<sup>4321</sup> Public schools may not refuse admission to students who are unable to pay school fees.<sup>4322</sup> Primary education is not free, but the poorest households may claim an exemption from school fees in their district.<sup>4323</sup>

Despite constitutional guarantees, significant barriers to education exist. Costs such as school fees, transportation, and school uniforms continue to prevent some children from attending school.<sup>4324</sup> HIV/AIDS orphans and children heading households face obstacles such as stigmatization, absence of adult support, and the need to work to provide meals for themselves and their siblings.<sup>4325</sup> Many schools also continue to face significant infrastructure and other problems that have a negative impact on the quality of education.<sup>4326</sup>

In 2002, the gross primary enrollment rate was 106 percent, and the net primary enrollment rate was 89 percent.<sup>4327</sup> Gross and net enrollment ratios are based on the number of students formally registered in primary school and therefore do not necessarily reflect actual school attendance. Primary school attendance statistics are not available for South Africa. As of 2002, 84 percent of children who started primary school were likely to reach grade 5.<sup>4328</sup>

## Child Labor Laws and Enforcement

The Basic Conditions of Employment Act establishes the minimum age for employment at 15 years.<sup>4329</sup> The Employment Act allows for the Minister of Labor to set additional prohibitions or conditions on the employment of children age 15 years and over, who are no longer subject to compulsory schooling under any law.<sup>4330</sup> The maximum penalty for illegally employing a child, according to the Employment Act, is 3 years of imprisonment.<sup>4331</sup> The Constitution provides for the right of every child, defined as a person less than 18 years of age, to be protected from labor practices which are exploitative. It also prohibits children from performing work or providing services that are age-inappropriate or that jeopardize their well being

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<sup>4320</sup> *Constitution of the Republic of South Africa*, (December 10, 1996), Chapter 2, Section 29(1)(a); available from <http://www.concourt.gov.za/constitution/const02.html#28>.

<sup>4321</sup> *South African Schools Act*, No. 84 of 1996, (November 15, 1996), Chapter 2, Sections 3(1), 5, 6.

<sup>4322</sup> *Ibid.*, Chapter 2, Section 5(3)(a).

<sup>4323</sup> U.S. Consulate- Johannesburg, *reporting*, September 3, 2004, para 9.

<sup>4324</sup> U.S. Consulate- Johannesburg, *reporting*, October 5, 2001, para 12.

<sup>4325</sup> Bill Rau, *Combating Child Labour and HIV/AIDS in Sub-Saharan Africa*, Paper No. 1, ILO-IPEC, July 2002, 24,26.

<sup>4326</sup> Government of South Africa- Department of Education, *Education for All: The South African Assessment Report*, Pretoria, March 2000, 38-39. However, the 2003 Plan of Action focuses on improving the quality of schools for the poorest 40 percent of students and seeks to remove all barriers to school access in a three year span. See Government of South Africa- Department of Education, *Plan of Action: Improving access to free and quality basic education for all*, June 14, 2003, 2.

<sup>4327</sup> UNESCO Institute for Statistics, <http://stats.uis.unesco.org/TableViewer/tableView.aspx?ReportId=51> (Gross and Net Enrolment Ratios, Primary; accessed October 2005). For a detailed explanation of gross primary enrollment rates that are greater than 100 percent, please see the definitions of gross primary enrollment rate in "Data Sources and Definitions" section of this report.

<sup>4328</sup> UNESCO Institute for Statistics, <http://stats.uis.unesco.org/TableViewer/tableView.aspx?ReportId=55> (School life expectancy, % of repeaters, survival rates; accessed December 2005).

<sup>4329</sup> *Basic Conditions of Employment Act 75 of 1997*, (December 5, 1997), 43(1)(a)(b), 43(3), 93; available from [http://www.workinfo.com/free/Sub\\_for\\_legres/data/bcea1998.htm](http://www.workinfo.com/free/Sub_for_legres/data/bcea1998.htm).

<sup>4330</sup> *Ibid.*, Sections 44(1), 44(2).

<sup>4331</sup> *Ibid.*, Sections 43(1)(a)(b), 43(3), 44(2), 93.

or development.<sup>4332</sup> In July 2004, the South African Department of Labor (SADOL) passed regulations concerning the employment of children in the film, entertainment, sports, and advertising industries. Employers wishing to hire children must first apply for a license, set permissible hours, and provide schooling, transportation, and chaperone services.<sup>4333</sup>

The worst forms of child labor may be prosecuted under different statutes in South Africa. The Employment Act and the Constitution prohibit all forms of forced labor.<sup>4334</sup> The Defense Act of 2002 sets 18 years as the minimum age for voluntary, military service, military training, and conscription, even in times of national emergency.<sup>4335</sup> The Sexual Offences Act establishes sexual exploitation of children as a criminal offense. Children can be arrested for prostitution under the Sexual Offences Act, despite being victims of commercial sexual exploitation. Such cases, however, are generally referred by the Office of the National Director of Public Prosecutions to children's courts, which make determinations regarding children's need for care.<sup>4336</sup> The Child Care Act, as amended, sets a penalty of up to 10 years of imprisonment and/or a fine for any person who participates in or is involved in the commercial sexual exploitation of children.<sup>4337</sup> The Children's Bill, approved by the National Assembly in 2005, specifically prohibits the trafficking of children.<sup>4338</sup> Since 1999, the Government of South Africa has submitted to the ILO a list or an equivalent document identifying the types of work that it has determined are harmful to the health, safety or morals of children under Convention 182 or Convention 138.<sup>4339</sup>

The SADOL is tasked with enforcement of child labor laws. There are approximately 1,000 labor inspectors nationwide, but none focus exclusively on monitoring child labor.<sup>4340</sup> According to the U.S. Department of State, SADOL effectively enforces child labor laws in the formal non-agricultural sector but less so in other sectors.<sup>4341</sup> The Child Protection Unit (CPU) and the Family Violence, Child Protection, and Sexual Offenses Unit (FCS) within the South African Police Service also are involved in child protection issues. The CPU offers services to child victims in a sensitive way, and investigates and raises awareness of crimes against children. There are 28 CPUs and 14 FCSs located across the country.<sup>4342</sup>

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<sup>4332</sup> *Constitution of the Republic of South Africa*, Chapter 2, Sections 28(3), 28(1)(e) and (f).

<sup>4333</sup> U.S. Consulate- Johannesburg, *reporting*, September 3, 2004, para 4.

<sup>4334</sup> *Basic Conditions of Employment Act*, 43(1)(a)(b), 43(3), 93.

<sup>4335</sup> *Ibid.*, Chapter 2, Section 28(1)(i), 28(3).

<sup>4336</sup> Government of South Africa, *The National Child Labour Action Programme for South Africa, Draft 4.10*, Pretoria, October 2003, 21; available from [http://www.labour.gov.za/useful\\_docs/doc\\_display.jsp?id=9503](http://www.labour.gov.za/useful_docs/doc_display.jsp?id=9503). See also *Forbidden or forgiven? The legal status of sex work in South Africa*, Community Law Centre, October 1999 [cited July 5, 2005]; available from [http://www.communitylawcentre.org.za/gender/gendernews1999/1999\\_2\\_sex.php#sex](http://www.communitylawcentre.org.za/gender/gendernews1999/1999_2_sex.php#sex).

<sup>4337</sup> The Act also provides the same penalties for anyone who owns, leases, manages, or occupies property where CSEC occurs and knowingly fails to report it to the police. *Child Care Amendment Act*, (1999), Section 50A.

<sup>4338</sup> U.S. Department of State, *reporting*, November 15, 2005, para 2.

<sup>4339</sup> ILO-IPEC official, email communication to USDOL official, November 14, 2005.

<sup>4340</sup> U.S. Consulate- Johannesburg, *reporting*, September 3, 2004.

<sup>4341</sup> *Ibid.*, para 5. See also U.S. Department of State, *Country Reports- 2004: South Africa*, Section 6d. See also U.S. Consulate- Johannesburg, *reporting*, October 5, 2001, para 8.

<sup>4342</sup> *Child Protection Unit*, South African Society for the Prevention of Child Abuse and Neglect, December 2, 2002 [cited July 5, 2005]; available from <http://www.saspcan.org.za/childprot.htm>. See also *Establishment of the SA Police Child Protection Unit*, Crime Busters of South Africa, March 2000 [cited May 20, 2004]; available from <http://www.100megsop2.com/crimebusters/ChildAbuse.html>.

## Current Government Policies and Programs to Eliminate the Worst Forms of Child Labor

The government is implementing the National Program of Action for Children (NPA). The Office on the Status of Children coordinates the plan and also coordinates all policies concerning child welfare and child related programs.<sup>4343</sup> The South African Social Security Agency provides social grants to children aged 13 years and under to assist them with meeting basic necessities and staying out of the workforce.<sup>4344</sup>

Selected Child Labor Measures Adopted by Governments		
Ratified Convention 138	3/30/2000	✓
Ratified Convention 182	6/07/2000	✓
ILO-IPEC Member		✓
National Plan for Children		✓
National Child Labor Action Plan		
Sector Action Plan (Human Trafficking)		✓

The SADOL chairs the Child Labor Intersectoral Group (CLIG), a national stakeholder group that coordinates child labor activities conducted by the government, unions, and NGOs, and raises awareness about child labor and the enforcement of child labor laws.<sup>4345</sup> The SADOL also is slated to coordinate implementation of the Child Labor Action Plan (CLAP) which aims to eliminate exploitative child labor.<sup>4346</sup> The CLAP is currently in draft form.<sup>4347</sup>

In collaboration with the government, ILO/IPEC is implementing a USD 5 million USDOL-funded regional child labor project in Southern Africa, which includes South Africa. Efforts in South Africa are focused on supporting the Government of South Africa's Child Labor Action Plan through awareness-raising, enhancing capacity for policy implementation and monitoring, and direct action programs.<sup>4348</sup> The American Institutes for Research is also implementing a USD 9 million regional Child Labor Education Initiative project funded by USDOL in Southern Africa, and is working in collaboration with the Government of South Africa to improve quality and access to basic and vocational education for South African children who are working in, or are at risk of working in, the worst forms of child labor.<sup>4349</sup>

In the past year, the government continued to provide training to the police and judiciary on anti-trafficking in persons activities.<sup>4350</sup> Government-owned radio and TV stations supported activities by the International Organization for Migration to raise public awareness of the trafficking issue.<sup>4351</sup>

<sup>4343</sup> Office of the President, Joint Committee on Children, Youth, and Persons with Disabilities, June 13, 2003; available from <http://www.pmg.org.za/docs/2003/viewminute.php?id=2914>. See also Statement: United Nations General Assembly Special Session on Children, May 8, 2002; available from <http://www.gcis.gov.za/media/minister/020508.htm>. See also *National Programme of Action: 2000 and Beyond*, Office of the Rights of the Child, [website] 2004 [cited December 13, 2005]; available from <http://www.children.gov.za/About.html>.

<sup>4344</sup> U.S. Consulate- Johannesburg, *reporting*, September 1, 2005, paras 1 and 2c. See also, Government of South Africa, *National Child Labour Action Programme*, 19.

<sup>4345</sup> There are 10 CLIG offices located in the provinces. See Fatima Bhyat, *Meeting Notes*, prepared by USDOL official, July 26, 2000. See also Dawie Bosch & Associates, *Towards a National Child Labour Action Programme for South Africa*, Pretoria, October 2002, 8; available from [http://www.labour.gov.za/useful\\_docs/doc\\_display.jsp?id=9504](http://www.labour.gov.za/useful_docs/doc_display.jsp?id=9504).

<sup>4346</sup> Government of South Africa, *National Child Labour Action Programme*, 2,3,10.

<sup>4347</sup> U.S. Consulate- Johannesburg, *reporting*, September 1, 2005, para 2d.

<sup>4348</sup> ILO-IPEC, *Supporting the Time-Bound Programme to eliminate the Worst Forms of Child Labor in South Africa's Child Labor Action Programme and laying the basis for concerted action against Worst Forms of Child Labor in Botswana, Lesotho, Namibia, and Swaziland*, September 30, 2003, 30.

<sup>4349</sup> *Notice of Award: Cooperative Agreement*, U.S. Department of Labor / American Institutes for Research, Washington D.C., August 16, 2004, 1,2.

<sup>4350</sup> U.S. Department of State, *Country Reports- 2004: South Africa*, Section 5.

<sup>4351</sup> U.S. Department of State, *reporting*, November 15, 2005, para 10.

UNICEF also supports activities aimed at improving access to primary education, increasing support for early childhood development, and protecting children's rights.<sup>4352</sup> The government continues to allocate more resources to the most deprived schools in its provinces and to disadvantaged black African children.<sup>4353</sup> The Department of Education is implementing an action plan to improve access to free and quality basic education for the most disadvantaged learners.<sup>4354</sup> The government also provides up to 4.6 million students with school meals.<sup>4355</sup>

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<sup>4352</sup> UNICEF, *At a glance: South Africa*, UNICEF, 2005 [cited June 16, 2005]; available from <http://www.unicef.org/infobycountry/southafrica.html>.

<sup>4353</sup> U.S. Department of State, *Country Reports- 2004: South Africa*, Section 5. See also Government of South Africa- Department of Education, *Plan of Action: Improving access to free and quality basic education for all*, Foreword. See also Government of South Africa- Department of Education, *Education for All: South Africa*, 26, 27, 32.

<sup>4354</sup> Government of South Africa- Department of Education, *Plan of Action: Improving access to free and quality basic education for all*, Foreword.

<sup>4355</sup> UN Integrated Regional Information Network, "South Africa: 4.6 million children rely on school meals," IRINnews.org, [online], July 2, 2004 [cited July 3, 2005]; available from [http://www.irinnews.org/report.asp?ReportID=41983&SelectRegion=Southern\\_Africa&SelectCountry=SOUTH\\_AFRICA](http://www.irinnews.org/report.asp?ReportID=41983&SelectRegion=Southern_Africa&SelectCountry=SOUTH_AFRICA).